

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLY CARL LYONS,

NO. CIV. S-01-412 LKK/KJM P

Plaintiff,

v.

O R D E R

D. BAUGHMAN,

Defendant.

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Plaintiff Willy Carl Lyons is a state prisoner who brought suit for defendants', as employees of the California Department of Corrections and Rehabilitation, failure to protect him from assault by other prisoners in February 2001. The court entered judgment for defendants after a jury was unable to reach a unanimous verdict. Pending before the court is defendants' Bill of Costs totaling \$3,353.82 and plaintiff's objections thereto.

I. Background

On February 2002 the court granted plaintiff's request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). Doc. No.

1 5. On May 7, 2009 a jury ruled in favor of defendants on
2 plaintiff's allegations of violations of his Eight Amendment
3 rights. The first case ended in a mistrial after the jury was
4 unable to reach a unanimous verdict of seven to one in favor of
5 defendants. On the same date this court entered a judgment for
6 defendants. Defendants now seek an award of costs in the amount of
7 \$3,353.82. Plaintiff objects to defendants' Bill of Costs for
8 failing to provide necessary documentation, because plaintiff is
9 indigent, and because billing plaintiff for costs would chill
10 future civil rights cases.

11 **II. Standard**

12 Federal Rule of Civil Procedure 54(d) (1) and Eastern District
13 Local Rule 54-292(f) govern the taxation of costs, other than
14 attorney's fees, to the prevailing party in a civil matter. Under
15 Federal Rule of Civil Procedure 54(d) (1), unless a federal statute,
16 the Federal Rules, or a court order provides otherwise, costs -
17 other than attorney's fees - should be allowed to the prevailing
18 party. Fed. R. Civ. P. 54(d) (1). Trial courts do not have
19 discretion to tax whatever costs seem appropriate. Courts may tax
20 only costs defined in 28 U.S.C.A. § 1920 and Local Rule 54-292.

21 Parties prevail when judgment is entered in their favor. Rio
22 Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1021-23
23 (9th Cir. 2002). Under Federal Rule of Civil Procedure 54(d), there
24 is a presumption in favor of awarding costs to the prevailing
25 party, which can only be overcome when the court exercises its
26 discretion to disallow costs for specific reasons. Ass'n of

1 Mexican-Am. Educators v. California, 231 F.3d 572, 591 (9th Cir.
2 2000) (en banc).

3 **III. Analysis**

4 Defendants seek recovery of costs, to which plaintiff objects
5 to defendants' Bill of Costs based on inadequacy of documentation,
6 plaintiff's indigence and the effect payment would have on
7 discouraging future civil rights cases. Defendants have responded
8 to plaintiff's objections and clarify line items in defendants'
9 Bill of Costs.

10 **A. Defendants' right to costs under Federal Rule of Civil**
11 **Procedure 54(d).**

12 When this court entered judgment in defendants' favor,
13 defendants are the prevailing party as required under Federal Rule
14 of Civil Procedure 54(d). In cases brought under § 1983, a
15 plaintiff is considered to have prevailed if the legal relationship
16 between the parties has been materially altered and if he or she
17 has obtained at least some relief on the merits of the claims.
18 Farrar v. Hobby, 506 U.S. 103, 111-12 (1992). The court, however,
19 has discretion to refrain from awarding costs or fees to a
20 prevailing plaintiff if the verdict, although favorable to the
21 plaintiff, would benefit him in no way. Id. at 110 & n.3 (although
22 plaintiffs obtained declaratory judgment in their favor against
23 defendant prison officials, they were not "prevailing parties"
24 because they were no longer inmates at the institution in question
25 and therefore would not benefit from the judgment); see also
26 Stanley v. Univ. of S. Cal., 178 F.3d 1069, 1079 (9th Cir. 1999);

1 Ass'n of Mexican-American Educators, 231 F.3d at 591. In exercising
2 that discretion, a district court must "specify reasons" for its
3 refusal to award costs. Ass'n of Mexican-American Educators, 231
4 F.3d at 591.

5 A prevailing party is entitled to recover costs even in the
6 case of indigent prisoner litigants who have been granted leave to
7 proceed in forma pauperis. Monroe v. U.S. Marshals, 101 F.3d 706
8 (9th Cir. 1996). However, in a civil rights action, consideration
9 of a plaintiff's limited resources is an appropriate reason for
10 denial of costs. Ass'n of Mexican-American Educators, 231 F.3d at
11 593.

12 Here, although plaintiff did not prevail in his claims in this
13 action, his claims were not without merit. The jury in the first
14 case was unable to reach a unanimous verdict, which "reflects the
15 difficult constitutional issues the jury faced and the varying
16 conclusions individual jurors may reach when assessing the
17 reasonableness of particular conduct." Antoine v. County of
18 Sacramento, No. CIV. S-06-01349 WBS GGH, 2009 WL 1260318 at *2
19 (E.D.Cal. May 6, 2009).

20 Additionally, "imposing costs on losing civil rights
21 plaintiffs of modest means may chill civil rights litigation" that
22 is important to the legal system. Stanley, 178 F.3d at 1080.
23 Plaintiff's argument that he is indigent is compelling and has been
24 supported by evidence. Doc. No. 5. In this case, the costs
25 plaintiff faces are significantly less than the award the plaintiff
26 faced in Stanley. Nevertheless, imposition of a payment of

1 \$3,353.82 against an individual who is indigent would be
2 inequitable. Based on the evidence of the plaintiff's limited
3 financial resources and the possibility that the imposition of the
4 award would have a chilling effect on civil rights litigants, this
5 court denies defendants' Bill of Costs in its entirety.¹


6 **V. Conclusion**

7 In accordance with the above analysis, the court orders as
8 follows:

9 Defendants' Bill of Costs is DENIED.

10 IT IS SO ORDERED.

11 DATED: August 21, 2009.

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13 
14 LAWRENCE K. KARLTON
15 SENIOR JUDGE
16 UNITED STATES DISTRICT COURT
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23 ¹Plaintiff objects to specific line items of defendants' Bill
24 of Costs. The Ninth Circuit has held that, as long as the items
25 fall within the taxable costs of § 1920 and any applicable Local
26 Rule, the cost is permissible. Alflex Corp. V. Underwriters
Laboratories, Inc., 914 F.2d 175, 177 (9th Cir. 1990). However,
this court need not address plaintiff's line item objections
because this court denies defendants' costs in its entirety.